

105TH CONGRESS
1ST SESSION

H. R. 2616

IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 1997

Received

NOVEMBER 13, 1997

Read twice and referred to the Committee on Labor and Human Resources

AN ACT

To amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Community-Designed
3 Charter Schools Act”.

4 **SEC. 2. INNOVATIVE CHARTER SCHOOLS.**

5 Title VI of the Elementary and Secondary Education
6 Act of 1965 (20 U.S.C. 7301 et seq.) is amended—

7 (1) in section 6201(a)—

8 (A) in paragraph (1)(C), by striking “and”
9 after the semicolon;

10 (B) by redesignating paragraph (2) as
11 paragraph (3); and

12 (C) by inserting after paragraph (1) the
13 following:

14 “(2) support for planning, designing, and initial
15 implementation of charter schools as described in
16 part C of title X; and”; and

17 (2) in section 6301(b)—

18 (A) in paragraph (7), by striking “and”
19 after the semicolon;

20 (B) by redesignating paragraph (8) as
21 paragraph (9); and

22 (C) by inserting after paragraph (7) the
23 following:

24 “(8) planning, designing, and initial implemen-
25 tation of charter schools as described in part C of
26 title X; and”.

1 **SEC. 3. CHARTER SCHOOLS.**

2 Part C of title X of the Elementary and Secondary
3 Education Act of 1965 is amended to read as follows:

4 **“PART C—PUBLIC CHARTER SCHOOLS**

5 **“SEC. 10301. FINDINGS AND PURPOSE.**

6 “(a) FINDINGS.—The Congress finds that—

7 “(1) enhancement of parent and student choices
8 among public schools can assist in promoting com-
9 prehensive educational reform and give more stu-
10 dents the opportunity to learn to challenging State
11 content standards and challenging State student
12 performance standards, if sufficiently diverse and
13 high-quality choices, and genuine opportunities to
14 take advantage of such choices, are available to all
15 students;

16 “(2) useful examples of such choices can come
17 from States and communities that experiment with
18 methods of offering teachers and other educators,
19 parents, and other members of the public the oppor-
20 tunity to design and implement new public schools
21 and to transform existing public schools;

22 “(3) charter schools are a mechanism for test-
23 ing a variety of educational approaches and should,
24 therefore, be exempted from restrictive rules and
25 regulations if the leadership of such schools commits
26 to attaining specific and ambitious educational re-

1 sults for educationally disadvantaged students con-
2 sistent with challenging State content standards and
3 challenging State student performance standards for
4 all students;

5 “(4) charter schools, as such schools have been
6 implemented in a few States, can embody the nec-
7 essary mixture of enhanced choice, exemption from
8 restrictive regulations, and a focus on learning
9 gains;

10 “(5) charter schools, including charter schools
11 that are schools-within-schools, can help reduce
12 school size, which can have a significant effect on
13 student achievement;

14 “(6) the Federal Government should test, evalu-
15 ate, and disseminate information on a variety of
16 charter school models in order to help demonstrate
17 the benefits of this promising educational reform;
18 and

19 “(7) there is a strong documented need for
20 cash-flow assistance to charter schools that are
21 starting up, because State and local operating reve-
22 nue streams are not immediately available.

23 “(b) PURPOSES.—The purposes of this part are—

1 “(1) to provide financial assistance for the plan-
2 ning, design, initial implementation of charter
3 schools;

4 “(2) to facilitate the ability of States and local-
5 ities to increase the number of charter schools in the
6 Nation to not less than 3,000 by the year 2000; and

7 “(3) to evaluate the effects of charter schools,
8 including the effects on students, student achieve-
9 ment, staff, and parents.

10 **“SEC. 10302. PROGRAM AUTHORIZED.**

11 “(a) IN GENERAL.—The Secretary may award grants
12 to State educational agencies having applications approved
13 pursuant to section 10303 to enable such agencies to con-
14 duct a charter school grant program in accordance with
15 this part.

16 “(b) SPECIAL RULE.—If a State educational agency
17 elects not to participate in the program authorized by this
18 part or does not have an application approved under sec-
19 tion 10303, the Secretary may award a grant to an eligible
20 applicant that serves such State and has an application
21 approved pursuant to section 10303.

22 “(c) PROGRAM PERIODS.—

23 “(1) GRANTS TO STATES.—

24 “(A) BASIC GRANTS.—Grants awarded to
25 State educational agencies under this part for

1 planning, design, or initial implementation of
2 charter schools, shall be awarded for a period of
3 not more than 5 years.

4 “(B) EXTENSION.—Any State educational
5 agency that has received a grant or subgrant
6 under this part prior to October 1, 1997, shall
7 be eligible to receive an additional grant for a
8 period not to exceed 2 years in accordance with
9 this section, notwithstanding that such a State
10 does not meet the requirements of section
11 10309(1)(A).

12 “(2) GRANTS TO ELIGIBLE APPLICANTS.—

13 “(A) BASIC GRANTS.—Grants awarded by
14 the Secretary to eligible applicants or subgrants
15 awarded by State educational agencies to eligi-
16 ble applicants under this part shall be awarded
17 for planning, design, or initial implementation
18 of charter schools, for a period not to exceed
19 more than 5 years, of which the eligible appli-
20 cant may use—

21 “(i) not more than 30 months for
22 planning and program design; and

23 “(ii) not more than 4 years for the
24 initial implementation of a charter school.

1 “(B) EXTENSION.—Any eligible applicant
2 that has received a grant or subgrant under
3 this part prior to October 1, 1997, shall be eli-
4 gible to receive an additional grant for a period
5 not to exceed 2 years in accordance with this
6 section, notwithstanding that such an eligible
7 applicant does not meet the requirements of
8 section 10309(1)(A).

9 “(d) LIMITATION.—Except as otherwise provided
10 under subsection (c), the Secretary shall not award more
11 than one grant and State educational agencies shall not
12 award more than one subgrant under this part to support
13 a particular charter school.

14 “(e) PRIORITY AND REQUIREMENTS.—

15 “(1) PRIORITY.—

16 “(A) FISCAL YEARS 1998, 1999, AND 2000.—
17 In awarding grants under this part for any of
18 the fiscal years 1998, 1999, and 2000 from
19 funds appropriated under section 10310 that
20 are in excess of \$51,000,000 for the fiscal year,
21 the Secretary shall give priority to State edu-
22 cational agencies in accordance with subpara-
23 graph (C).

24 “(B) SUCCEEDING FISCAL YEARS.—In
25 awarding grants under this part for fiscal year

2001 or any succeeding fiscal year from any funds appropriated under section 10310, the Secretary shall consider the number of charter schools in each State and shall give priority to State educational agencies in accordance with subparagraph (C).

“(C) PRIORITY ORDER.—In awarding grants under subparagraphs (A) and (B), the Secretary shall, in the order listed, give priority to a State that—

“(i) meets all requirements of paragraph (2);

“(ii) meets 2 requirements of paragraph (2); and

“(iii) meets 1 requirement of paragraph (2).

“(2) REQUIREMENTS.—The requirements referred to in paragraph (1)(C) are as follows:

“(A) The State law regarding charter schools ensures that each charter school has a high degree of autonomy over its budgets and expenditures.

“(B) The State law regarding charter schools provides that not less than 1 chartering authority in the State allows for an increase in

1 the number of charter schools from 1 year to
2 the next year; and

3 “(C) The State law regarding charter
4 schools provides for periodic review and evalua-
5 tion by the authorized public chartering agency
6 of each charter school to determine whether the
7 school is meeting or exceeding the academic
8 performance requirements and goals for charter
9 schools as set forth under State law or the
10 school’s charter.

11 **“SEC. 10303. APPLICATIONS.**

12 “(a) APPLICATIONS FROM STATE AGENCIES.—Each
13 State educational agency desiring a grant from the Sec-
14 retary under this part shall submit to the Secretary an
15 application at such time, in such manner, and containing
16 or accompanied by such information as the Secretary may
17 require.

18 “(b) CONTENTS OF A STATE EDUCATIONAL AGENCY
19 APPLICATION.—Each application submitted pursuant to
20 subsection (a) shall—

21 “(1) describe the objectives of the State edu-
22 cational agency’s charter school grant program and
23 a description of how such objectives will be fulfilled,
24 including steps taken by the State educational agen-
25 cy to inform teachers, parents, and communities of

1 the State educational agency’s charter school grant
2 program;

3 “(2) describe how the State educational agency
4 will inform each charter school of available Federal
5 programs and funds that each such school is eligible
6 to receive and ensure that each such school receives
7 its appropriate share of Federal education funds al-
8 located by formula; and

9 “(3) contain assurances that the State edu-
10 cational agency will require each eligible applicant
11 desiring to receive a subgrant to submit an applica-
12 tion to the State educational agency containing—

13 “(A) a description of the educational pro-
14 gram to be implemented by the proposed char-
15 ter school, including—

16 “(i) how the program will enable all
17 students to meet challenging State student
18 performance standards;

19 “(ii) the grade levels or ages of chil-
20 dren to be served; and

21 “(iii) the curriculum and instructional
22 practices to be used;

23 “(B) a description of how the charter
24 school will be managed;

25 “(C) a description of—

1 “(i) the objectives of the charter
2 school; and

3 “(ii) the methods by which the charter
4 school will determine its progress toward
5 achieving those objectives;

6 “(D) a description of the administrative re-
7 lationship between the charter school and the
8 authorized public chartering agency;

9 “(E) a description of how parents and
10 other members of the community will be in-
11 volved in the design and implementation of the
12 charter school;

13 “(F) a description of how the authorized
14 public chartering agency will provide for contin-
15 ued operation of the school once the Federal
16 grant has expired, if such agency determines
17 that the school has met the objectives described
18 in subparagraph (C)(i);

19 “(G) a request and justification for waivers
20 of any Federal statutory or regulatory provi-
21 sions that the applicant believes are necessary
22 for the successful operation of the charter
23 school, and a description of any State or local
24 rules, generally applicable to public schools,

1 that will be waived for, or otherwise not apply
2 to, the school;

3 “(H) a description of how the subgrant
4 funds or grant funds, as appropriate, will be
5 used, including a description of how such funds
6 will be used in conjunction with other Federal
7 programs administered by the Secretary;

8 “(I) a description of how students in the
9 community will be—

10 “(i) informed about the charter
11 school; and

12 “(ii) given an equal opportunity to at-
13 tend the charter school;

14 “(J) an assurance that the eligible appli-
15 cant will annually provide the Secretary and the
16 State educational agency such information as
17 may be required to determine if the charter
18 school is making satisfactory progress toward
19 achieving the objectives described in subpara-
20 graph (C)(i);

21 “(K) an assurance that the applicant will
22 cooperate with the Secretary and the State edu-
23 cational agency in evaluating the program as-
24 sisted under this part;

1 “(L)(i) an assurance that the charter
2 school that is a local educational agency or the
3 local educational agency in which the charter
4 school is located, as the case may be, will com-
5 ply with the requirements of the Individuals
6 with Disabilities Education Act (20 U.S.C.
7 1400 et seq.) with respect to the provision of
8 special education and related services to chil-
9 dren with disabilities in charter schools; and

10 “(ii) a description of how the charter
11 school that is a local educational agency or the
12 local educational agency in which the charter
13 school is located, as the case may be, will en-
14 sure, consistent with such requirements, the re-
15 ceipt of special education and related services
16 by children with disabilities in charter schools;
17 and

18 “(M) such other information and assur-
19 ances as the Secretary and the State edu-
20 cational agency may require; and

21 “(4) describe how the State educational agency
22 will use administrative funds provided under section
23 10304(f)(4) to disseminate best or promising prac-
24 tices of charter schools in such State to each local
25 educational agency in the State, except that such

1 dissemination shall result, to the extent practicable,
2 in a minimum of paperwork for a State educational
3 agency, eligible applicant, or charter school.

4 “(c) CONTENTS OF ELIGIBLE APPLICANT APPLICA-
5 TION.—Each eligible applicant desiring a grant pursuant
6 to section 10302 shall submit an application to the State
7 educational agency or Secretary, respectively, at such
8 time, in such manner, and accompanied by such informa-
9 tion as the State educational agency or Secretary, respec-
10 tively, may reasonably require.

11 “(d) CONTENTS OF APPLICATION.—Each application
12 submitted pursuant to subsection (c) shall contain—

13 “(1) the information and assurances described
14 in subparagraphs (A) through (L) of subsection
15 (b)(3), except that for purposes of this subsection
16 subparagraphs (J), (K), and (L) of such subsection
17 shall be applied by striking ‘and the State edu-
18 cational agency’ each place such term appears; and

19 “(2) assurances that the State educational
20 agency—

21 “(A) will grant, or will obtain, waivers of
22 State statutory or regulatory requirements; and

23 “(B) will assist each subgrantee in the
24 State in receiving a waiver under section
25 10304(e).

1 **“SEC. 10304. ADMINISTRATION.**

2 “(a) SELECTION CRITERIA FOR STATE EDU-
3 CATIONAL AGENCIES.—The Secretary shall award grants
4 to State educational agencies under this part on the basis
5 of the quality of the applications submitted under section
6 10303(b), after taking into consideration such factors
7 as—

8 “(1) the contribution that the charter schools
9 grant program will make to assisting educationally
10 disadvantaged and other students to achieving State
11 content standards and State student performance
12 standards and, in general, a State’s education im-
13 provement plan;

14 “(2) the degree of flexibility afforded by the
15 State educational agency to charter schools under
16 the State’s charter schools law;

17 “(3) the ambitiousness of the objectives for the
18 State charter school grant program;

19 “(4) the quality of the strategy for assessing
20 achievement of those objectives;

21 “(5) the likelihood that the charter school grant
22 program will meet those objectives and improve edu-
23 cational results for students; and

24 “(6) the number of charter schools created
25 under this part in the State.

1 “(b) SELECTION CRITERIA FOR ELIGIBLE APPLI-
2 CANTS.—The Secretary shall award grants to eligible ap-
3 plicants under this part on the basis of the quality of the
4 applications submitted under section 10303(c), after tak-
5 ing into consideration such factors as—

6 “(1) the quality of the proposed curriculum and
7 instructional practices;

8 “(2) the degree of flexibility afforded by the
9 State educational agency and, if applicable, the local
10 educational agency to the charter school;

11 “(3) the extent of community support for the
12 application;

13 “(4) the ambitiousness of the objectives for the
14 charter school;

15 “(5) the quality of the strategy for assessing
16 achievement of those objectives; and

17 “(6) the likelihood that the charter school will
18 meet those objectives and improve educational re-
19 sults for students.

20 “(c) PEER REVIEW.—The Secretary, and each State
21 educational agency receiving a grant under this part, shall
22 use a peer review process to review applications for assist-
23 ance under this part.

24 “(d) DIVERSITY OF PROJECTS.—The Secretary and
25 each State educational agency receiving a grant under this

1 part, shall award subgrants under this part in a manner
2 that, to the extent possible, ensures that such grants and
3 subgrants—

4 “(1) are distributed throughout different areas
5 of the Nation and each State, including urban and
6 rural areas; and

7 “(2) will assist charter schools representing a
8 variety of educational approaches, such as ap-
9 proaches designed to reduce school size.

10 “(e) WAIVERS.—The Secretary may waive any statu-
11 tory or regulatory requirement over which the Secretary
12 exercises administrative authority except any such require-
13 ment relating to the elements of a charter school described
14 in section 10309(1), if—

15 “(1) the waiver is requested in an approved ap-
16 plication under this part; and

17 “(2) the Secretary determines that granting
18 such a waiver will promote the purpose of this part.

19 “(f) USE OF FUNDS.—

20 “(1) STATE EDUCATIONAL AGENCIES.—Each
21 State educational agency receiving a grant under
22 this part shall use such grant funds to award sub-
23 grants to one or more eligible applicants in the State
24 to enable such applicant to plan and implement a
25 charter school in accordance with this part.

1 “(2) ELIGIBLE APPLICANTS.—Each eligible ap-
2 plicant receiving funds from the Secretary or a State
3 educational agency shall use such funds to plan and
4 implement a charter school in accordance with this
5 part.

6 “(3) ALLOWABLE ACTIVITIES FOR BASIC
7 GRANTS.—An eligible applicant receiving a basic
8 grant or subgrant under section 10302(c)(2) may
9 use the grant or subgrant funds only for—

10 “(A) post-award planning and design of
11 the educational program, which may include—

12 “(i) refinement of the desired edu-
13 cational results and of the methods for
14 measuring progress toward achieving those
15 results; and

16 “(ii) professional development of
17 teachers and other staff who will work in
18 the charter school; and

19 “(B) initial implementation of the charter
20 school, which may include—

21 “(i) informing the community about
22 the school;

23 “(ii) acquiring necessary equipment
24 and educational materials and supplies;

1 “(iii) acquiring or developing curricu-
2 lum materials; and

3 “(iv) other initial operational costs
4 that cannot be met from State or local
5 sources.

6 “(4) ADMINISTRATIVE EXPENSES.—Each State
7 educational agency receiving a grant pursuant to
8 this part may reserve not more than 5 percent of
9 such grant funds for administrative expenses associ-
10 ated with the charter school grant program assisted
11 under this part.

12 “(g) TRIBALLY CONTROLLED SCHOOLS.—Each State
13 that receives a grant under this part and designates a trib-
14 ally controlled school as a charter school shall not consider
15 payments to a school under the Tribally Controlled
16 Schools Act of 1988 (25 U.S.C. 2507) in determining—

17 “(1) the eligibility of the school to receive any
18 other Federal, State, or local aid; or

19 “(2) the amount of such aid.

20 **“SEC. 10305. NATIONAL ACTIVITIES.**

21 “The Secretary shall reserve for each fiscal year the
22 lesser of 5 percent of the amount appropriated to carry
23 out this part for the fiscal year or \$5,000,000, to carry
24 out, giving highest priority to carrying out paragraph (3),
25 the following:

1 “(1) To provide charter schools, either directly
2 or through the State educational agency, with infor-
3 mation regarding available education funds that
4 such school is eligible to receive, and assistance in
5 applying for Federal education funds which are allo-
6 cated by formula, including filing deadlines and sub-
7 mission of applications; and

8 “(2) To provide, through 1 or more contracts
9 using a competitive bidding process—

10 “(A) charter schools with assistance in
11 accessing private capital;

12 “(B) pilot projects in a variety of States to
13 better understand and improve access to private
14 capital by charter schools; and

15 “(C) collection on a nationwide basis, of
16 information regarding successful programs that
17 access private capital for charter schools and
18 disseminate any such relevant information and
19 model descriptions to all charter schools.

20 “(3) To provide for the completion of the 4-year
21 national study (which began in 1995) of charter
22 schools and any related present or future evaluations
23 or studies which shall include the evaluation of the
24 impact of charter schools on student achievement,
25 including information regarding—

1 “(A) the number of students who applied
2 for admission to charter schools and the num-
3 ber of such students who enrolled in charter
4 schools, disaggregated on the basis of race, age,
5 disability, gender, limited English proficiency,
6 and previous enrollment in a public school;

7 “(B) student achievement; and

8 “(C) qualifications of school employees at
9 the charter school, including the number of
10 teachers within a charter school that have been
11 certified or licensed by the State and the turn-
12 over of the teaching force.

13 “(4)(A) To provide information to applicants
14 for assistance under this part;

15 “(B) assistance to applicants for assistance
16 under this part with the preparation of applications
17 under section 10303;

18 “(C) assistance in the planning and startup of
19 charter schools;

20 “(D) ongoing training and technical assistance
21 to existing charter schools; and

22 “(E) for the dissemination of best practices in
23 charter schools to other public schools.

1 **“SEC. 10306. FEDERAL FORMULA ALLOCATION DURING**
2 **FIRST YEAR AND FOR SUCCESSIVE ENROLL-**
3 **MENT EXPANSIONS.**

4 “For purposes of the allocation to schools by the
5 States or their agencies of funds under part A of title I,
6 and any other Federal funds which the Secretary allocates
7 to States on a formula basis, the Secretary and each State
8 educational agency shall take such measures not later
9 than 6 months after the date of the enactment of this part
10 as are necessary to ensure that every charter school re-
11 ceives the Federal funding for which it is eligible not later
12 than 5 months after first opening, notwithstanding the
13 fact that the identity and characteristics of the students
14 enrolling in that school are not fully and completely deter-
15 mined until that school actually opens. These measures
16 shall similarly ensure that every charter school expanding
17 its enrollment in any subsequent year of operation receives
18 the Federal funding for which it is eligible not later than
19 5 months after such expansion.

20 **“SEC. 10307. RECORDS TRANSFER.**

21 “State and local educational agencies, to the extent
22 practicable, shall ensure that a student’s records and if
23 applicable a student’s individualized education program as
24 defined in section 602(11) of the Individuals with Disabil-
25 ities Education Act (20 U.S.C. 1401(11)), are transferred

1 to the charter school upon transfer of a student to a char-
2 ter school in accordance with applicable State law.

3 **“SEC. 10308. PAPERWORK REDUCTION.**

4 “To the extent practicable, the Secretary and each
5 authorized public chartering agency, shall ensure that im-
6 plementation of this part results in a minimum of paper-
7 work for any eligible applicant or charter school.

8 **“SEC. 10309. DEFINITIONS.**

9 “As used in this part:

10 “(1) The term ‘charter school’ means a public
11 school that—

12 “(A) in accordance with a specific State
13 charter school statute, is exempted from signifi-
14 cant State or local rules that inhibit the flexible
15 operation and management of public schools,
16 but not from any rules relating to the other re-
17 quirements of this paragraph;

18 “(B) is created by a developer as a public
19 school, or is adapted by a developer from an ex-
20 isting public school, and is operated under pub-
21 lic supervision and direction;

22 “(C) operates in pursuit of a specific set of
23 educational objectives determined by the
24 school’s developer and agreed to by the author-
25 ized public chartering agency;

1 “(D) provides a program of elementary or
2 secondary education, or both;

3 “(E) is nonsectarian in its programs, ad-
4 missions policies, employment practices, and all
5 other operations, and is not affiliated with a
6 sectarian school or religious institution;

7 “(F) does not charge tuition;

8 “(G) complies with the Age Discrimination
9 Act of 1975, title VI of the Civil Rights Act of
10 1964, title IX of the Education Amendments of
11 1972, section 504 of the Rehabilitation Act of
12 1973, and part B of the Individuals with Dis-
13 abilities Education Act;

14 “(H) is a school to which parents choose to
15 send their children, and that admits students
16 on the basis of a lottery, if more students apply
17 for admission than can be accommodated;

18 “(I) agrees to comply with the same Fed-
19 eral and State audit requirements as do other
20 elementary and secondary schools in the State,
21 unless such requirements are specifically waived
22 for the purpose of this program;

23 “(J) meets all applicable Federal, State,
24 and local health and safety requirements;

1 “(K) operates in accordance with State
2 law; and

3 “(L) has a written performance contract
4 with the authorized public chartering agency in
5 the State.

6 “(2) The term ‘developer’ means an individual
7 or group of individuals (including a public or private
8 nonprofit organization), which may include teachers,
9 administrators and other school staff, parents, or
10 other members of the local community in which a
11 charter school project will be carried out.

12 “(3) The term ‘eligible applicant’ means an au-
13 thorized public chartering agency participating in a
14 partnership with a developer to establish a charter
15 school in accordance with this part.

16 “(4) The term ‘authorized public chartering
17 agency’ means a State educational agency, local edu-
18 cational agency, or other public entity that has the
19 authority pursuant to State law and approved by the
20 Secretary to authorize or approve a charter school.

21 **“SEC. 10310. AUTHORIZATION OF APPROPRIATIONS.**

22 “For the purpose of carrying out this part, there are
23 authorized to be appropriated \$100,000,000 for fiscal year
24 1998 and such sums as may be necessary for each of the
25 four succeeding fiscal years.

1 **“SEC. 10311. PROHIBITION OF CONTRACTS.**

2 “If it has been finally determined by a court or Fed-
3 eral agency that any person intentionally affixed a fraudu-
4 lent label bearing a ‘Made in America’ inscription, or any
5 inscription with the same meaning, to any product sold
6 in or shipped to the United States that was not made in
7 the United States, such person shall be ineligible to receive
8 any contract or subcontract made with funds provided
9 pursuant to this part, pursuant to the debarment, suspen-
10 sion, and ineligibility procedures described in section
11 9.400 through 9.409 of title 48, Code of Federal Regula-
12 tions.”.

Passed the House of Representatives November 7,
1997.

Attest:

ROBIN H. CARLE,
Clerk.